

Application No. 10/624,967
First Inventor: Ioana M. RizoIU
Page 6

RECEIVED
CENTRAL FAX CENTER

FEB 22 2007

REMARKS

Claims 69-94 are presently pending in this application.

Applicants would like to thank Examiner David Shay for the Examiner Interviews conducted with Applicants' representative, Kenton Mullins, on February 22, 2007.

The Office Action contained (1) an objection to the new drawing filed on December 13, 2005, as allegedly containing new matter, (2) a rejection of claims under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement, and (3) a rejection of claims under 35 U.S.C. 112, second paragraph and/or a rejection of claims based upon non-enablement and/or indefiniteness grounds. Regarding these objections and rejections, the paragraph bridging pages 2 and 3 of the Office Action quotes language from the current application regarding the plurality of nozzles issue. Regarding this language, in the referenced interview, Mr. Mullins explained that the quoted language indicates that the "other nozzles" are "not shown"; that the nozzle 72 is referenced as a "second nozzle" rather than one of the "other nozzles"; and that the nozzle 72 is referenced as one that can "also" be used (rather than one that "may alternatively be used" or "may instead be used"). Also, in that interview, it was established that the current application would appear to include the content of U.S. Application No. 08/522,503, so that the modification of the current FIG. 5 to be commensurate in scope with FIG. 5 of the '503 application would appear to be copasetic. Accordingly, Applicants believe that the issues concerning the above objections and rejections have been addressed and resolved in the referenced February 22nd Examiner Interview. Applicants request that the referenced objections and rejections be reconsidered and withdrawn.

Regarding the new imposed prior-art rejections of claims 69-94 based upon 35 U.S.C. 103(a) as allegedly being unpatentable in view of various references, the Office Action has now rejected the claims as allegedly being obvious in view of one of the RizoIU et al. publications referenced as "SPIE 1994 'Morphological ...,'" rejected the claims as allegedly being obvious in view of another

Application No. 10/624,967
First Inventor: Ioana M. RizoIU
Page 7

one of the RizoIU et al. publications referenced as "SPIE 1994 'New Laser ...,'" rejected the claims as allegedly being obvious in view of yet another one of the RizoIU et al. publications referenced as "DENT 1994," and rejected the claims as allegedly being obvious in view of a further one of the RizoIU et al. publications referenced as "SPIE 1993." The Office Action noted, in each of these rejections, that a plurality of atomizers was not disclosed by the prior-art references of record and, furthermore, alleged that "it would have been obvious ... to employ a plurality of atomizers ... since this is not critical"

Applicants, in response, traverse each of these rejections and assert that the presence or absence of a criticality should not be the standard used in determining whether a motivation existed in the prior-art to combine the cited references and whether the resulting combinations, to the extent valid, could be interpreted to read on the currently claimed combinations. The presently pending independent claim 69 recites "focusing or placing a peak concentration of electromagnetic energy into an interaction zone above a target; outputting atomized fluid particles from a plurality of atomizers into the interaction zone; and at least a portion of the atomized fluid particles in the interaction zone highly absorbing at least a portion of the electromagnetic energy, expanding, and imparting disruptive forces onto the target." Any combination of the prior art cited in the Office Action does not disclose, teach or suggest the limitations set forth in this claim.

Moreover, with respect to the Office Action's allegation that "it would have been obvious ... to employ a plurality of atomizers ... since this would enable varying the density of particles while still maintaining the control over the size distribution thereof," the Office Action has not pointed to any prior art disclosing this perceived advantage as a motivation to combine the references as set forth in the Office Action rejections.

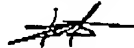
It is submitted that the presently pending dependent claims are allowable at least because of their dependencies upon independent, amended claim 69, and further because of the additional limitations recited in those dependent claims.

Application No. 10/624,967
First Inventor: Ioana M. Rizoiu
Page 8

Accordingly, Applicants respectfully request that the rejections under 35 U.S.C. 103(a) be reconsidered and withdrawn.

In view of the above, Applicants respectfully submit that the application is now in condition for allowance, and an early indication of the same is requested. The Examiner is invited to contact the undersigned with any questions.

Respectfully submitted,



February 22, 2007

Kenton R. Mullins
Attorney for Applicants
Registration No. 36,331

STOUT, UXA, BUYAN & MULLINS, LLP
4 Venture, Suite 300
Irvine, CA 92618
Tel: 949-450-1750
Fax: 949-450-1764